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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
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9 SHANIKA PALM, and all others similarly  
10 situated,

11 Plaintiff,

12 v.

13 ASSOCIATED CREDIT SERVICE, INC.,  
14 a Washington Corporation; CHRISTINA  
15 DOE; and DAVID SOLBERG,  
16 Defendants.  
17

NO. 2:15-cv-00091-SAB

**ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
DISMISSAL OF DEFENDANTS'  
COUNTERCLAIM**

18 On April 30, 2015, Plaintiff filed a Special Motion to Strike Defendant's  
19 Counterclaim. ECF No. 11. Plaintiff's motion challenged Defendant's  
20 counterclaim based on Washington's anti-strategic lawsuit against public policy  
21 (anti-SLAPP) statute. RCW 4.24.525.

22 Following a decision by the Supreme Court of Washington, which  
23 invalidated Washington's anti-SLAPP statute, this Court denied Plaintiff's motion  
24 to strike the counterclaim but permitted the parties to file supplemental briefing in  
25 support of Plaintiff's Motion to Dismiss Defendants' Counterclaim, ECF No. 24,  
26 for the failure to set forth a viable independent cause of action. The Court has  
27 considered the supplemental briefing and is fully informed.  
28

**ORDER GRANTING PLAINTIFF'S MOTION  
FOR DISMISSAL OF DEFENDANTS' COUNTERCLAIM ~ 1**

1 In essence, Defendants' Counterclaim asserts that if Defendants can show  
2 this action was brought "in bad faith and for the purpose of harassment" they will  
3 be entitled to reasonable attorney's fees and costs under 15 U.S.C. § 1692k(a)(3).  
4 Defendants correctly state the law with regard to the Court's authority to award  
5 fees and costs in appropriate circumstances. Plaintiff, however, is correct that §  
6 1692k(a)(3) does not state a proper cause of action for which Defendants can  
7 make a counterclaim. Instead, awarding fees or costs under this provision are  
8 properly deemed a "prayer for relief." This Court will interpret the counterclaim as  
9 a prayer for relief and Defendants may amend their answer to reflect this.

10 Accordingly, **IT IS ORDERED:**

- 11 1. The Plaintiff's Motion to Dismiss Defendant's Counterclaim, ECF No.  
12 24, is **GRANTED**.
- 13 2. Defendants' request for attorney's fees and costs will be construed as a  
14 prayer for relief.
- 15 3. Defendants may, within fourteen days, amend their Answer to include  
16 attorney's fees and costs in the prayer for relief.

17 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
18 this Order and to provide copies to counsel.

19 **DATED** 23<sup>rd</sup> day of July 2015.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

25 Stanley A. Bastian  
26 United States District Judge  
27  
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